

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of
THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS
(Jointly Administered)

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

Plaintiff,

v.

HON. PEDRO PIERLUISI URRUTIA, in his official
capacity as Governor of Puerto Rico; THE PUERTO
RICO FISCAL AGENCY AND FINANCIAL
ADVISORY AUTHORITY; LUIS M. COLLAZO
RODRÍGUEZ, in his official capacities as
Administrator of the Retirement System for Employees
of the Government of Puerto Rico and Executive
Director of the Government of Puerto Rico Retirement
Board; and JUAN C. BLANCO URRUTIA, in his
official capacity as Director of the Office of
Management and Budget,

Defendants.

Adv. Proc. No. 21-00119 in 17 BK
3283-LTS

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523 (LTS)) (Last Four Digits of Federal Tax ID: 3801). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

**JOINT INFORMATIVE MOTION CONCERNING ACTS 80, 81, AND 82 OF 2020 AND
JOINT RESOLUTION 33 OF 2021 AND REQUEST FOR ENLARGMENT OF TIME**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Commonwealth of Puerto Rico (the “Commonwealth”), Governor Pedro Pierluisi Urrutia (the “Governor”), and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) (the Governor and AAFAF are, together, the “Government”) respectfully submit this joint informative motion regarding events following the entry of the stipulation and Order dated December 28, 2021 dismissing the adversary proceeding (the “Order”). ECF No. 6.

I. Case Background

1. On December 20, 2021, the Oversight Board filed the above-captioned adversary proceeding, seeking to have Acts 80, 81, and 82 of 2020 (“Act 80,” “Act 81,” and “Act 82,” respectively, and together the “Acts”) and Joint Resolution 33 of 2021 (“JR 33”) enjoined and nullified as violative of numerous provisions of PROMESA. ECF No. 1. The Oversight Board alleged, among other things, that the Acts sought to alter the Commonwealth’s pension regime in a manner inconsistent with the Modified Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico (as amended, the “Plan”). 17-BK-3283-LTS, ECF No. 19784.

2. After the Oversight Board filed the complaint, the Oversight Board and Government engaged in discussions to resolve the dispute.

3. On December 27, 2021, the Oversight Board, the Government, and the Office of Management and Budget (“OMB”) filed a stipulation and proposed order [ECF No. 5] resolving the adversary proceeding subject to court approval.

4. On December 28, 2021, the Court approved the stipulation and Order.

5. The Order obligated the Oversight Board and the Government to undertake certain actions within specified time periods, as follows:

- a. **Act 81:** Within 60 days of the date of the approved stipulation, the parties “shall endeavor to reach an agreement . . . on a means to provide enhanced retirement benefits to police officers consistent with the Commonwealth’s certified fiscal plan and currently proposed plan of adjustment.” If the parties reached such an agreement, “the Oversight Board shall provide the necessary fiscal plan and budgetary approvals or certifications required by PROMESA.” ECF No. 5 at ¶ 1.
- b. **Act 82:** Within 120 days of the date of the approved stipulation, the parties “shall endeavor to reach an agreement . . . on possible alternatives, consistent with the certified fiscal plan and proposed plan of adjustment, to provide an enhanced compensation package for teachers with the goal of improving public education.” *Id.* at ¶ 2.
- c. **Act 80 and JR 33:** *“The parties shall endeavor to reach an agreement on a means of implementing the incentivized early retirement provisions set forth in Act 80 for certain employees where doing so would create savings above and beyond the level of savings required in the currently certified fiscal plan (the ‘Baseline Savings’) or otherwise satisfy some other metric the parties agree on, as follows:*
 - a. *On a per agency level, the Government shall provide both the descriptions of the position proposed to be eliminated (the ‘Proposed Eliminated Positions’) and the projected net savings that will result from the elimination of said position while taking into consideration the*

incremental cost of providing the incentivized early retirement benefit (the ‘Savings’);

b. If the parties mutually agree on (i) the Proposed Eliminated Positions, (ii) the Savings, and (iii) that the Savings are above and beyond the Baseline Savings, or otherwise satisfy some other metric the parties may agree on, then the parties shall use their respective best efforts to concur on a means of implementation within 45 days after the date of this agreement, including necessary fiscal plan and budgetary funding in compliance with PROMESA; and

c. The Eliminated Positions shall be eliminated within the Governmental system, and the eliminated positions, including any functionally similar positions, shall not be restored, recreated, or created within the affected agencies and corporations.” Id. at ¶ 3.

II. Subsequent Events

6. Following entry of the Order, the Oversight Board and the Government reached agreements, as contemplated in paragraphs 1 and 2 of the Order, concerning Acts 81 and 82.

7. On February 15, 2022, the Oversight Board and the Government filed an informative motion requesting an additional 120 days (until June 11, 2022) to satisfy their respective obligations under paragraph 3 of the Order.

8. During the intervening period, the Oversight Board and the Government continued to have meetings and communications regarding potential implementation of Act 80.

9. The Government represents it is performing additional analysis concerning the Proposed Eliminated Positions and Savings, as set forth in paragraph 3(a) of the Order. As a result,

the Oversight Board and the Government mutually desire to enlarge the 165-day period one more time concerning Act 80, as set forth in paragraph 3 of the Order, to enable the parties to complete their respective analyses and engage in a bilateral discussion to explore the possibility of reaching consensus.

10. Therefore, the parties desire to continue these discussions and jointly request that they be allowed to satisfy their respective obligations under paragraph 3 of the Order on or before 1:00 p.m. AST on July 14, 2022.

11. During this extended period, the following additional deadlines shall apply:

- a. The Government shall finalize its list of Proposed Eliminated Positions and analysis of the Savings and provide this information to the Oversight Board no later than June 21, 2022.
- b. If the Government satisfies the deadline in paragraph 11(a), above, the Oversight Board and the Government shall determine whether they agree on each of the items in paragraph 3(b) of the December 28, 2021 Stipulation and Order on or before 1:00 p.m. AST on July 14, 2022.

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Dated: June 11, 2022
San Juan, Puerto Rico

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SO ORDERED on June 15, 2022

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HON. LAURA TAYLOR SWAIN

UNITED STATES DISTRICT COURT JUDGE